

00684.003135.1 (35.C11250 CI)

PATENT APPLICATION #38

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MANABU KATO

Appln. No.: 08/951,635

Filed: October 17, 1997

For: SCANNING OPTICAL  
APPARATUS

Examiner: J. Phan

Group Art Unit: 2872

May 9, 2002

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OFFICE OF PETITIONS

Commissioner for Patents

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Washington, DC 20231

PETITION UNDER 37 C.F.R. § 1.182  
TO INSERT PRIORITY CROSS-REFERENCE

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Sir:

RELIEF REQUESTED

Applicant wishes to thank Mr. Mark Palutta of the Office of Patent Legal Administration for the courtesies extended during a personal interview on February 8, 2002. In accordance with the kind suggestions of Mr. Palutta, Applicant respectfully petitions under 37 C.F.R. § 1.182 to request entry in two prior applications from which the subject application claims priority under 35 U.S.C. § 120, namely Application No. 08/607,169 filed February 26, 1996, and a file wrapper continuation thereof, Application No. 08/951,635 filed October 17, 1997, of the attached respective Preliminary Amendments in order to provide a cross-reference in those applications to parent applications under 35 U.S.C. § 120.

Applicant understands from the interview that the instant petition, rather than a petition under 37 C.F.R. § 1.78(a)(3), is the proper vehicle for inserting the priority cross-reference; however, if Applicant is mistaken then Applicant respectfully requests that the petition be treated as a petition under 37 C.F.R. § 1.78(a)(3), if necessary.

### FACTS

1. Application No. 08/522,118 ("Application 1") was filed August 31, 1995.
2. Application No. 08/607,169 ("Application 2") was filed February 26, 1996.
3. However, Application 2 did not include a cross-reference to Application 1.
4. Application No. 08/951,635 ("Application 3") was filed October 17, 1997, as a continuation application under 37 C.F.R. § 1.62 of Application 2.
5. Application 3 included a cross-reference to Application 2
6. However, Application 3 did not include a cross-reference to Application 1.
7. Two successive continuation applications under 37 C.F.R. § 1.53(d) ("CPA") were filed on August 24, 1998, and August 26, 1999 (respectively, "Application 4" and "Application 5").

### REASONS WHY THE RELIEF REQUESTED SHOULD BE GRANTED

In a chain of applications claiming benefit under 35 U.S.C. § 120, if each application in the chain includes a cross-reference to all prior applications, the cross-reference requirement of that statute is satisfied. Here, in a chain of five applications, Applications 2

and 3 never included a cross-reference to Application 1. Accordingly, Applicant wishes to amend Applications 2 and 3 to include a cross-reference stating that Application 2 is a --continuation-in-part-- of Application 1. (Applications 4 and 5 need not be separately amended since they were CPAs, and the amendment of Application 3 automatically carries over.) Such an amendment will insure that each of Applications 2-5 included a cross-reference to all prior applications.

#### FORMAL MATTERS

It is respectfully understood, in accordance with the February 8 interview between Mr. Palutta and Applicant's representatives, that no petition fee is likely to be required. However, any required fee should be charged to Deposit Account 06-1205. A duplicate of this paper is enclosed.

#### REQUEST FOR INTERVIEW

If any questions remain, Applicant respectfully requests that the Office of Petitions contact Applicant's undersigned representative to schedule a further personal interview.

#### CONCLUSION

In view of the foregoing, Applicant respectfully requests entry of the attached Preliminary Amendments in Applications 2 and 3. Favorable consideration is earnestly solicited.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

Daniel Glueck  
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Attachments

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